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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,288	10/03/2003	Toshiya Wakatsuki	2204-031822	3488
28289	7590	06/02/2006	EXAMINER	
THE WEBB LAW FIRM, P.C. 700 KOPPERS BUILDING 436 SEVENTH AVENUE PITTSBURGH, PA 15219			NGUYEN, CAM N	
			ART UNIT	PAPER NUMBER
			1754	

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/678,288	WAKATSUKI ET AL.	
	Examiner	Art Unit	
	Cam N. Nguyen	1754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03/20/06 (an amendment/response).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on originally filed is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicants' amendment and remarks, filed March 20, 2006, has been made of record and entered. Claims 1 & 2 have been amended.

Claims 1-4 are currently pending.

Status of Withdrawn Claim(s)

2. This application contains claims 3 & 4 are drawn to an invention nonelected with traverse in Paper No. December 01, 2005. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Objections

3. Claims 1 & 2 are objected to because of the following informalities:

A. In claim 1, line 3, "of" is suggested deleted.

B. In claim 1, line 7, "with reaction of" should be changed to --, prepared by simultaneously impregnating --.

C. In claim 1, line 11-12, "simultaneously impregnated with the catalytic-activity constituent and the carrier-forming constituent" should be deleted.

D. In claim 1, line 13-16, "catalytic-activity particles, produced from said complex oxide by an activating process and distributed on the surface of said porous body, ..."

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should be changed to --catalytic-activity particles, distributed on the surface of said porous carrier body, produced by activating said complex oxide, wherein 80% or more of said catalytic-activity particles having particle size of 3.5 nm or less--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112 (Second Paragraph)

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding the Markush group recited in claim 2, it would appear that the "catalytic-activity particles" of claim 1 would inherently be Ni and/or Co since it is produced by activating the complex oxide as recited in claim 1. If the catalytic-activity particles of claim 1 is not Ni and/or Co then it is unclear as to what metal or compound is intended for the catalytic-activity particles of claim 1. And if the "catalytic-activity particles" is not Ni and/or Co then the phrase "produced from said complex oxide" in claim 1 renders the claim confusing.

Claim Rejections - 35 USC § 102(b)/103

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 & 2 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Clyde et al., "hereinafter Clyde", (US Pat. 3,998,758).

Clyde discloses a catalyst comprising: a) a ceramic sponge support, etc. b), a first layer of either nickel, copper or cobalt substantially uniformly deposited on and adherent all internal surface of the ceramic sponge support; c) a second layer comprising a lattice network of either nickel, copper, or cobalt adherent to and on the surface of said first layer; and d) a sufficient quantity of either aluminum, magnesium, or zinc intermittently dispersed throughout the second layer to retain the integral structure of said lattice network (see col. 7, claim 1). Suitable ceramic sponge support including the claimed porous carrier body materials (see col. 4, ln 4-14).

Clyde is silent with respect to the particle size of the catalytic-activity particles. It is inherent and expected that the catalyst particle size would be the same in view of the same metal components and carrier materials disclosed and being claimed.

In the alternative, if in fact the catalyst particles of the Clyde reference is not the same then it would have been *prima facie obvious* to one of ordinary skill in the art at the time the invention was made to have controlled or optimized the catalyst particle sizes by controlling the process conditions during the process of making the catalyst in order to achieve an effective catalyst, in view of *In re Boesch*.

Response to Applicants' Arguments

8. Applicants' response, filed on March 20, 2006, has been fully considered, but not deemed persuasive in view of the new ground of rejection(s) above.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Citations

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. All references are cited for related art. See PTO-892 Form attached.

Conclusion

11. Claims 1-4 are pending. Claims 1-2 are rejected. Claims 3-4 remain withdrawn. No claims are allowed.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cam N Nguyen, whose telephone number is 571-272-1357. The examiner can normally be reached on M, W, R, & F, 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nguyen/cnn *cnn*
May 30, 2006

Cam Nguyen
CAM N. NGUYEN
PRIMARY EXAMINER

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